

**Introduced by Senator Maldonado**

February 16, 2005

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An act to amend Section 104650 of, and to add and repeal Section 104651 of, the Health and Safety Code, relating to nutrition.

LEGISLATIVE COUNSEL'S DIGEST

SB 281, as introduced, Maldonado. Nutrition.

Existing law requires the State Department of Health Services to establish and implement, to the extent funds other than state general funds are available, a "5 A Day—For Better Health" program for the purpose of promoting public awareness of the need to increase the consumption of fruits and vegetables as part of a low-fat, high-fiber diet in order to improve health and prevent major chronic diseases, including diet-related cancers. Existing law authorizes the department to contract with qualified organizations for services to implement this program.

This bill would provide that contracts entered into under this provision shall not be subject to the requirements of the State Contract Act.

This bill would establish a 2-year pilot program beginning July 1 of the first year a funding source is established, to make available free fresh and dried fruits and fresh vegetables to pupils in no fewer than 25 eligible elementary and secondary schools throughout the state, with certain requirements. The pilot program would be administered by the department and implementation of the pilot program would be contingent on the availability of funds, other than General Fund moneys. The bill would require a participating school to submit reports, as specified, to the department and other appropriate agencies. The bill would also require the department to submit a final report to the Legislature, the Department of Food and Agriculture, and the State

Department of Education. These provisions establishing the pilot program would become inoperative on July 1, 2010, and would be repealed as of January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 104650 of the Health and Safety Code is  
2 amended to read:

3 104650. (a) The department shall establish and implement, to  
4 the extent funds are available pursuant to subdivision (d) which  
5 are other than state general funds, a “5 A Day—For Better  
6 Health” program for the purpose of promoting public awareness  
7 of the need to increase the consumption of fruits and vegetables  
8 as part of a low-fat, high-fiber diet in order to improve health and  
9 prevent major chronic diseases, including diet-related cancers.

10 (b) The department may promote the “5 A Day—For Better  
11 Health” program to the public through channels, including, but  
12 not limited to, print and electronic media, retail, grocers, schools,  
13 and other government programs. For purposes of this article,  
14 “public” includes, but is not limited to, the general adult  
15 population, adults with lower educational attainment, schoolage  
16 children and youth, and high-risk groups determined by the  
17 department.

18 (c) The department may, at its sole discretion, contract with  
19 qualified organizations for general or specialized services to  
20 implement this article, including personnel, marketing, public  
21 relations, research, evaluation, and administration. *Contracts*  
22 *entered into pursuant to this section shall not be subject to the*  
23 *requirements of Part 2 (commencing with Section 10100) of*  
24 *Division 2 of the Public Contract Code.*

25 (d) The department is encouraged to investigate all available  
26 funding sources, public and private, for the purposes of this  
27 article, including application for public and private grants.

28 SEC. 2. Section 104651 is added to the Health and Safety  
29 Code, to read:

30 104651. (a) (1) The department shall administer a two-year  
31 pilot program beginning July 1 of the first July after a funding  
32 source is established, to make available free fresh and dried fruits

1 and fresh vegetables to pupils in no fewer than 25 eligible  
2 elementary and secondary schools throughout the state. This pilot  
3 program shall be administered as a part of the Local Incentive  
4 Award Program of the Statewide California Nutrition Network  
5 for Healthy, Active Families and the California “5 A Day--For  
6 Better Health” program.

7 (2) The establishment and implementation of this pilot  
8 program is contingent on the identification of funding sources,  
9 other than General Fund moneys, by the department. The  
10 department is encouraged to investigate funding sources, both  
11 public and private, including, but not limited to, application for  
12 public and private grants.

13 (3) The department may contract with qualified organizations  
14 for services to implement this section pursuant to Section 19130  
15 of the Government Code. Contracts entered into for the pilot  
16 program shall be subject to subdivision (c) of Section 104650.

17 (4) The department, in cooperation with the State Department  
18 of Education and the Department of Food and Agriculture, shall  
19 establish guidelines for the administration and evaluation of the  
20 program, including, but not limited to, selection and eligibility  
21 criteria for intervention and comparison schools, promotion and  
22 distribution methods, and reporting.

23 (5) A prospective participating school shall submit a letter of  
24 intent to the department detailing its eligibility pursuant to  
25 subdivision (b) and the manner in which the school would  
26 comply with subdivision (b).

27 (6) Fruits and vegetables provided pursuant to the pilot  
28 program shall be provided free of charge to pupils, shall not  
29 supplant fruits and vegetables provided through existing meal  
30 programs, and shall be provided to pupils during the schoolday  
31 before or after, but not during regularly scheduled school meal  
32 periods. Methods of delivery shall be chosen by the schools and  
33 may include, but need not be limited to, classroom delivery and  
34 vending machines.

35 (b) To be eligible to participate in the pilot program, a school  
36 shall meet all of the following requirements:

37 (1) Fifty percent of pupils attending the school shall qualify  
38 for the federal free and reduced-price meal program.

39 (2) Contribute to the program's ability to reflect the diverse  
40 population of the state.

1 (3) Meet any other requirements established by the  
2 department.

3 (4) Have an enrollment of at least 250 pupils.

4 (5) The school or school district shall have an existing contract  
5 with the department as a recipient of an incentive award through  
6 the Statewide California Nutrition Network for Healthy, Active  
7 Families.

8 (6) No more than three schools may be selected in any single  
9 county with counties to be selected from no fewer than three  
10 regions of the 11 regions of the state, as defined by the “5 A  
11 Day--For Better Health” program.

12 (7) At least one school, but not more than three schools, may  
13 be on an American Indian Reservation, with only one school per  
14 reservation.

15 (8) At least 12 schools, but not more than 18 schools, shall be  
16 elementary schools. For purposes of this paragraph, an  
17 elementary school is a school with a combination of students in  
18 K-6 grade levels.

19 (c) Participating schools and school districts shall do all of the  
20 following:

21 (1) Widely publicize the availability of the items described in  
22 subdivision (a).

23 (2) Spend no more than 25 percent of funding provided by this  
24 section for administrative services in the first year of  
25 participating in this pilot program, and no more than 15 percent  
26 in subsequent years.

27 (3) Provide instruction to pupils on nutrition as part of its  
28 course of study, with particular emphasis on the benefits of  
29 eating five to nine servings of fruits and vegetables every day.  
30 This instruction shall incorporate all of the following elements:

31 (A) Strategies to increase the likelihood that a pupil will make  
32 healthy food choices, including eating at least five to nine  
33 servings of fruits and vegetables each day.

34 (B) Encouraging pupils to become more physically active.

35 (C) Providing community resource information regarding  
36 nutrition assistance programs.

37 (D) Providing skill building opportunities in cooking and food  
38 demonstrations.

39 (d) After the funds are allocated, each participating school  
40 shall be required to submit to the department, the Department of

1 Food and Agriculture, and the State Department of Education an  
2 interim report, and a final report three months following the  
3 completion of the pilot program. The reports required by this  
4 subdivision shall include, but not be limited to, all of the  
5 following information:

6 (1) The delivery methods and delivery times of fruits and  
7 vegetables.

8 (2) The manner in which fruits and vegetables were purchased  
9 by the school.

10 (3) The vendors from whom the fruits and vegetables were  
11 purchased.

12 (4) The types and amount of nutrition education and  
13 promotion utilized during the pilot program.

14 (5) The effects of the pilot program on the sales of other foods  
15 and beverages sold at the school.

16 (6) Cost considerations for the school.

17 (7) Lessons learned through the pilot program.

18 (8) Suggestions for future programs.

19 (9) Feasibility of continuing the pilot program or other similar  
20 programs.

21 (10) Changes in the students reported consumption of fruits  
22 and vegetables.

23 (11) Changes in the students knowledge, skills, and  
24 preferences for fruits and vegetables, their self-confidence about  
25 selecting fruits and vegetables, and their awareness of specific “5  
26 A Day--For Better Health” messages.

27 (12) The types and amount of nutrition education and  
28 promotion utilized during the pilot program.

29 (e) The information required for the reports submitted  
30 pursuant to subdivision (d) shall be collected through methods  
31 including, but not limited to, all of the following:

32 (1) Records of food and vegetable purchases submitted by the  
33 school to the state.

34 (2) Site visits to participating schools, focus groups, and  
35 interviews with school stakeholders.

36 (3) A final in-person meeting between participating schools  
37 and the state.

38 (f) The department shall provide a final report to the  
39 Legislature, the Department of Food and Agriculture, and the  
40 State Department of Education within six months of the

1 completion of the pilot program that summarizes the information  
2 submitted pursuant to subdivision (d), and evaluates the efficacy  
3 of the pilot program, evaluates the feasibility of expanding the  
4 pilot program, and makes recommendations for future programs  
5 to increase fruit and vegetable consumption.

6 (g) Based on the outcome of the evaluations conducted  
7 pursuant to subdivision (f), the department, the Department of  
8 Food and Agriculture, and the State Department of Education  
9 shall examine the feasibility, benefits, and costs of expanding the  
10 pilot program and implementing it on a broader scale in  
11 additional areas of the state.

12 (h) This section shall become inoperative on July 1, 2010, and,  
13 as of January 1, 2011, is repealed, unless a later enacted statute,  
14 that becomes operative on or before January 1, 2011, deletes or  
15 extends the dates on which it becomes inoperative and is  
16 repealed.